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May 25, 1960

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Enclosure Registry

Allen Dulles,  
Chief, CIA,  
Washington, D.C.

Dear Mr. Dulles;

Keep up the good work.

Thought you might be interested in the enclosed article on morality of intelligence work. If you ever need a good man with a newspaper background, just say the word.

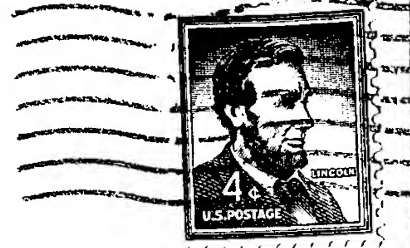
*Nick Lamberto*

Nick Lamberto

Staff Writer,

Des Moines Register

Nick Lamberto  
DES MOINES  
REGISTER AND TRIBUNE  
P. O. Box 957  
DES MOINES 4, IOWA



PERSONAL

Mr. Allen Dulles,  
Chief, CIA,  
2430 E. Northwest  
Washington, D.C.

Dubuque, Ia., Witness May 19, 1960

May 19, 1960

THE WITNESS

# tics Dead Issue?

Experts View Plane Incident ...

## Is Spying Immoral Practice?

St. Louis.—(NC)—Presence of U.S. "spy" plane 1,300 miles inside Russia on May 1 was clearly illegal, but the United States has moral justification for its actions.

That is the consensus of a Catholic expert on international law, a nationally known theologian, and a philosopher who were contacted following U.S. admission that a so-called "weather plane" actually was a Soviet Russia Premier Nikita Khrushchev charged, on spying mission.

The plane was shot down, the Russians reported, and its U.S. "civilian" pilot, Francis Gary Powers, 30, captured alive after parachuting. The plane was flying at an altitude of some 12 miles, 1,300 miles inside Russia, Khrushchev claimed, when it was intercepted by a ground-fired Russian missile.

Kurt von Schuschnigg, former chancellor of Austria and author of a recent text on international law, quickly admitted the Powers' flight was illegal, but said espionage itself is an activity recognized by international law.

### Need For Protection

Father Nicholas Persich, C.M., resident of Kenrick Seminary, noted that nations have obligations to protect their citizens from aggression. In this day and age, "provident foresight" might involve flights such as the Powers plane made in the interest of peace. He added the same rule would hold true were a Russian plane to fly over the U.S.

Father Thomas A. Donohue, S.J., St. Louis University philosopher who has written extensively on legal problems, noted that a nation's jurisdiction over its air space is not an absolute right, and cannot be pushed to unreasonable limits.

### Higher Questions

Mr. von Schuschnigg said there was no question but that Powers' flight was illegal, according to international law, but indicated that higher questions than legality might be at stake.

"According to international law, no airplane is allowed to penetrate into the air space of a foreign country, except by special agreement," he said.

The pre-World War II Chancellor of Austria, who is now professor of international law at St. Louis University, pointed out that espionage work itself is considered legal under international law.

"Everyone knows that espionage work exists," Mr. von Schuschnigg explained. "And it must be considered to be an accepted custom under international law. However, the espionage agent is operating at his own risk, and may be tried by the country which discovers him, according

"Obviously somebody goofed in this one," he said. "But the last couple of years before World War II—before Germany invaded Russia—Russia complained repeatedly of widespread violations of her airspace by German planes. One plane was even captured."

"An important difference between that series of incidents and this is that not one word was ever made public then. They were handled by diplomatic note, the usual procedure in handling incidents of espionage."

### Propaganda Purposes

"The kind of publicity surrounding the Powers' incident has propaganda purposes, of course, and can only be interpreted as having something to do with politics."

From an international law viewpoint, Mr. Von Schuschnigg noted, there is no difference between an espionage agent illegally flying across the borders of a country at 60,000 feet, and a spy on the ground walking into a country illegally without a passport.

"The only thing in the world that is free is space," he said. "The scientists don't give us an exact answer as to where that begins. But it begins at that point where conventional aircraft cannot operate."

### Morality of the Action

Father Persich, the seminary rector who is a doctor of sacred theology, commenting on the morality of spying, said it could not be considered necessarily evil.

"The individual as such has the right to privacy," he explained. "But when the peace of the world depends on one nation learning what is going on in the world, I don't see how espionage could be considered intrinsically evil."

"Espionage is a recognized act of governments. So it in itself is not evil, although one might not get very far in espionage without encountering serious moral problems such as lying or cheating."

"In the present situation, if a government has the obligation of protecting its citizens against aggression, that involves provident foresight, and the obligation of learning what is going on."

The question of lying came up when a U.S. Government spokesman first announced the captured U.S. plane was on a "weather flight" only to have his story contradicted by higher officials the following day when they admitted the plane's mission was espionage.

An actual lie may not necessarily have been involved, Father Persich noted.

### 'Weather Flight'

"That airplane would have had a weather plane explained to

the (U.S.) military in such a way that its mission would appear valid," he said. "If the military understood a 'weather flight' in the sense of a code word, while knowing full well what the plane's mission was, then its use would not necessarily have been lying."

Father Donohue, the St. Louis U. philosopher who has written extensively on legal problems, said espionage action such as the United States purportedly took in the Powers case might have been not only justified but morally indicated by the current state of world events.

He listed seven points as bearing on the Powers incident, "if one takes the general description of the Russian and American governments at face value."

"1. The received provision of international law could, in the main be justified philosophically—namely, that 'every state has complete and exclusive jurisdiction over the air space above its territory.' Such justification would be rooted in self-defense, freedom from provocations, safety of travel, safety of residence, etc. However, the statement would require important qualifications and restrictions."

"2. No jurisdiction of the type referred to is absolute. Neither may the rule be pushed to unreasonable limits. In effect, the provision, while generally satisfactory, is not completely so."

### Threat of Danger

"3. In the particular case at hand, the Russian government, both in its avowed philosophy and in political statements, has made it a practice to use the constant threat of danger to other people and particularly to the U.S. and her allies, as an instrument of national policy."

"4. The fundamental element of the threatened danger resides mainly in the character of contemporary weapons. The Russian government has made

it plain that it possesses long-range vehicles capable of delivering destructive weapons within the limits of the territorial United States and that of her allies.

"5. The Russian potential and the known Russian policy combine to create a situation where other nations, and in particular the United States, would be negligent if they did not take appropriate steps to ascertain the true character and the real immediacy of the danger. In effect, a state of quasi-war exists."

"6. It appears that a situation has been developed when, for purposes of defense, actions otherwise unusual are justified. It is my opinion, then, that the U.S. Government is justified and, as a matter of fact, under serious obligation to affect a continuous appraisal of the threatened danger whenever and wherever it exists. Since the danger may exist within the limits of the Soviet Union, this appraisal may take place there."

"7. The long prudence of pursuing actions implied in the above statement is a distinct question. I am in no position to comment on this area of political prudence."

## Polio Victims Told Suffering Is Source of Grace

Vatican City.—(NC)—Pope John XXIII told hundreds of polio victims that they are gaining up heavenly graces through their sufferings.

In a special audience with sons crippled by polio, the pontiff compared their afflictions with the weavers of the rug. Rug weavers work on the underside of a rug, how well they have done at the end of the day.

It is the same, Pope John said, only at the end of the afflicted find out how well they have done in the beatitudes proclaimed and weep and

### Father By Joe

St. George's Dom

Not a home of

of the threatened danger

contemporary weapons. The

Russian government has made

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